
Introduced by Senator BowenFebruary 20, 2004

An act to amend Section 472.5 of the Business and Professions Code, to amend Section 1795.92 of the Civil Code, to amend Section 26509 of the Government Code, and to amend Sections 415 and 426 of, to repeal Section 232 of, and to repeal Chapter 6 (commencing with Section 3000) of Division 2 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1711, as introduced, Bowen. New Motor Vehicle Board.

Existing law establishes a New Motor Vehicle Board in the Department of Motor Vehicles that regulates the activities or practices of a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, as specified.

This bill would abolish the board and would revise and repeal related statutes to reflect that abolition. The bill would transfer duties imposed on the board under statutes governing a dispute resolution program and a motor vehicle adjustment program, as defined, to the department.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 472.5 of the Business and Professions
- 2 Code is amended to read:
- 3 472.5. ~~The New Motor Vehicle Board in the~~ Department of
- 4 Motor Vehicles shall, in accordance with the procedures
- 5 prescribed in this section, administer the collection of fees for the
- 6 purposes of fully funding the administration of this chapter.



(a) Fees collected pursuant to this section shall be deposited in the Certification Account in the Consumer Affairs Fund and shall be available, upon appropriation by the Legislature, exclusively to pay the expenses incurred by the department in administering this chapter and to pay the ~~New Motor Vehicle Board as provided in Section 3016 of the Vehicle Code~~ *Department of Motor Vehicles to fund its activities in implementing its duties under this section.* If, at the conclusion of any fiscal year, the amount of fees collected exceeds the amount of expenditures for that purpose during that fiscal year, the surplus in the Certification Account shall be carried over into the succeeding fiscal year.

(b) ~~Beginning July 1, 1988, and on~~ *On* or before May 1 of each calendar year ~~thereafter, every~~ *a* manufacturer shall file with the ~~New Motor Vehicle Board~~ *Department of Motor Vehicles* a statement of the number of motor vehicles sold, leased, or otherwise distributed by or for the manufacturer in this state during the preceding calendar year, and shall, upon written notice delivered to the manufacturer by certified mail, return receipt requested, pay to the ~~New Motor Vehicle Board~~ *Department of Motor Vehicles* a fee, not to exceed one dollar (\$1) for each motor vehicle sold, leased, or distributed by or for the manufacturer in this state during the preceding calendar year. The total fee paid by each manufacturer shall be rounded to the nearest dollar in the manner described in Section 9559 of the Vehicle Code. Not more than one dollar (\$1) shall be charged, collected, or received from any one or more manufacturers pursuant to this subdivision with respect to the same motor vehicle.

(c) (1) The fee required by subdivision (b) is due and payable not later than 30 days after the manufacturer has received notice of the amount due and is delinquent after that time. A penalty of 10 percent of the amount delinquent shall be added to that amount, if the delinquency continues for more than 30 days.

(2) If a manufacturer fails to file the statement required by subdivision (b) by the date specified, the ~~New Motor Vehicle Board~~ *Department of Motor Vehicles* shall assess the amount due from the manufacturer by using as the number of motor vehicles sold, leased, or otherwise distributed by or for the manufacturer in this state during the preceding calendar year the total number of new registrations of all motor vehicles sold, leased, or otherwise

distributed by or for the manufacturer during the preceding calendar year.

(d) On or before February 1 of each year, the department shall notify the ~~New Motor Vehicle Board~~ *Department of Motor Vehicles* of the dollar amount necessary to fully fund the program established by this chapter during the following fiscal year. The ~~New Motor Vehicle Board~~ *Department of Motor Vehicles* shall use this information in calculating the amounts of the fees to be collected from manufacturers pursuant to this section.

(e) For purposes of this section, “motor vehicle” means a new passenger or commercial motor vehicle of a kind that is required to be registered under the Vehicle Code, but the term does not include a motorcycle, a motor home, or ~~any~~ a vehicle whose gross weight exceeds 10,000 pounds.

(f) The ~~New Motor Vehicle Board~~ *Department of Motor Vehicles* may adopt regulations to implement this section. The regulations shall include, at a minimum, a formula for calculating the fee, established pursuant to subdivision (b), for each motor vehicle and the total amount of fees to be collected from each manufacturer.

(g) Any revenues already received by the Arbitration Certification Program and deposited in the Vehicle Inspection and Repair Fund for the 1991–92 fiscal year that have not yet been spent shall be deposited into the Certification Account in the Consumer Affairs Fund.

SEC. 2. Section 1795.92 of the Civil Code is amended to read:

1795.92. Manufacturers shall have the following duties:

(a) A manufacturer shall, within 90 days of the adoption of an adjustment program, subject to priority for safety or emission-related recalls, notify by first-class mail all owners or lessees of motor vehicles eligible under the program of the condition giving rise to and the principal terms and conditions of the program.

(b) Copies of all notices mailed in accordance with subdivision (a) shall be sent to the ~~New Motor Vehicle Board~~ within the Department of Motor Vehicles and made available for public inquiries.

(c) A manufacturer shall, within 30 days of the adoption of any new adjustment program, notify its dealers, in writing, of all the terms and conditions thereof.

(d) A manufacturer who establishes an adjustment program shall implement procedures to assure reimbursement of each consumer eligible under an adjustment program who incurs expenses for repair of a condition subject to the program prior to acquiring knowledge of the program. The reimbursement shall be consistent with the terms and conditions of the particular program. The manufacturer shall notify the consumer within 21 business days of receiving a claim for reimbursement whether the claim will be allowed or denied. If the claim is denied, the specific reasons for the denial shall be stated in writing.

(e) Any consumer who, prior to acquiring knowledge of an adjustment program, incurs expenses for repair of a condition subject to the adjustment program may file a claim for reimbursement under subdivision (d). The claim shall be made in writing to the manufacturer within two years of the date of the consumer's payment for repair of the condition.

SEC. 3. Section 26509 of the Government Code is amended to read:

26509. (a) Notwithstanding any other provision of law, including any provision making records confidential, and including Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code, the district attorney shall be given access to, and may make copies of, any complaint against a person subject to regulation by a consumer-oriented state agency and any investigation of the person made by the agency, where that person is being investigated by the district attorney regarding possible consumer fraud.

(b) Where the district attorney does not take action with respect to the complaint or investigation, the material shall remain confidential.

(c) Where the release of the material would jeopardize an investigation or other duties of a consumer-oriented state agency, the agency shall have discretion to delay the release of the information.

(d) As used in this section, a consumer-oriented state agency is any state agency that regulates the licensure, certification, or qualification of persons to practice a profession or business within the state, where the regulation is for the protection of consumers who deal with the professionals or businesses. It includes, but is not limited to, all of the following:

- 1 (1) The Dental Board of California.
- 2 (2) The Medical Board of California.
- 3 (3) The State Board of Optometry.
- 4 (4) The California State Board of Pharmacy.
- 5 (5) The Veterinary Medical Board.
- 6 (6) The California Board of Accountancy.
- 7 (7) The California Architects Board.
- 8 (8) The State Board of Barbering and Cosmetology.
- 9 (9) The Board for Professional Engineers and Land Surveyors.
- 10 (10) The Contractors' State License Board.
- 11 (11) The Funeral Directors and Embalmers Program.
- 12 (12) The Structural Pest Control Board.
- 13 (13) The Bureau of Home Furnishings and Thermal Insulation.
- 14 (14) The Board of Registered Nursing.
- 15 (15) The State Board of Chiropractic Examiners.
- 16 (16) The Board of Behavioral Science Examiners.
- 17 (17) The State Athletic Commission.
- 18 (18) The Cemetery Program.
- 19 (19) The State Board of Guide Dogs for the Blind.
- 20 (20) The Bureau of ~~Security and Investigative Services~~
- 21 *Investigations.*
- 22 (21) The Court Reporters Board of California.
- 23 (22) The Board of Vocational Nursing and Psychiatric
- 24 Technicians of the State of California.
- 25 (23) The Osteopathic Medical Board of California.
- 26 (24) The Division of Investigation.
- 27 (25) The Bureau of Automotive Repair.
- 28 (26) The ~~State~~ Board for Geologists and Geophysicists.
- 29 (27) The Department of Alcoholic Beverage Control.
- 30 (28) The Department of Insurance.
- 31 (29) The Public Utilities Commission.
- 32 (30) The State Department of Health Services.
- 33 ~~(31) The New Motor Vehicle Board.~~
- 34 SEC. 4. Section 232 of the Vehicle Code is repealed.
- 35 ~~232. The "board" is the New Motor Vehicle Board.~~
- 36 SEC. 5. Section 415 of the Vehicle Code is amended to read:
- 37 415. (a) A "motor vehicle" is a vehicle that is self-propelled.
- 38 (b) "Motor vehicle" does not include a self-propelled
- 39 wheelchair, invalid tricycle, or motorized quadricycle, if operated

1 by a person who, by reason of physical disability, is otherwise
2 unable to move about as a pedestrian.

3 ~~(e) For purposes of Chapter 6 (commencing with Section 3000)~~
4 ~~of Division 2, “motor vehicle” includes a recreational vehicle as~~
5 ~~that term is defined in subdivision (a) of Section 18010 of the~~
6 ~~Health and Safety Code, but does not include a truck camper.~~

7 SEC. 6. Section 426 of the Vehicle Code is amended to read:

8 426. “New motor vehicle dealer” is a dealer, as defined in
9 Section 285, who, in addition to the requirements of that section,
10 either acquires for resale new and unregistered motor vehicles
11 from manufacturers or distributors of those motor vehicles or
12 acquires for resale new and unregistered off-highway motorcycles
13 from manufacturers or distributors of the vehicles. No distinction
14 shall be made, nor any different construction be given to the
15 definition of “new motor vehicle dealer” and “dealer” except for
16 the application of ~~the provisions of Chapter 6 (commencing with~~
17 ~~Section 3000) of Division 2 and Section 11704.5. Sections 3001~~
18 ~~and 3003 do not, however, apply to a dealer who deals exclusively~~
19 ~~in motorcycles or recreational vehicles, as defined in subdivision~~
20 ~~(a) of Section 18010 of the Health and Safety Code.~~

21 SEC. 7. Chapter 6 (commencing with Section 3000) of
22 Division 2 of the Vehicle Code is repealed.

